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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,380	10/10/2006	Peter Ziemer	ZAHFRI P887US	8867
20210 7590 12/23/2008 DAVIS & BUJOLD, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301			EXAMINER LE, DAVID D	
			ART UNIT 3655	PAPER NUMBER
			MAIL DATE 12/23/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/593,380	<b>Applicant(s)</b> ZIEMER, PETER	
	<b>Examiner</b> David D. Le	<b>Art Unit</b> 3655	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/20/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This is the first Office action on the merits of Application No. 10/593,380, filed 10 October 2006. Claims 24-46 are pending.

### **Documents**

2. The following documents have been received and filed as part of the patent application:
  - Replacement Sheet of Drawing, received on 06/04/07
  - Declaration and Power of Attorney, received on 09/20/06
  - Information Disclosure Statement, received on 09/20/06
  - Copy of Foreign Priority Document, received on 09/20/06

### ***Information Disclosure Statement***

3. The information disclosure statement filed 20 September 2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. The following foreign patent documents have been placed in the application file, but the information referred to therein has not been considered:
  - DE-29 36 969 A1;
  - DE-31 31 138 A1; and
  - DE-199 12 480 A1.

***Drawings***

4. The drawings were received on 04 June 2007. These drawings are approved.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claims 24-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

*Claim 24:*

- Lines 10-11 recite the limitation “a gear stage exchanger”. It is unclear which element in the transmission that the claimed limitation is referring to as “a gear stage exchanger”.
- Lines 17-20 recite the limitation “activation of the first, the second, the third, the fourth, the fifth, and the sixth shape-fit shifting elements can be effected without access through rotating parts”. Since all the shape-fit shifting elements, as shown in Figs. 1, 3 and 5, are connected to the corresponding rotating parts, it is unclear which rotating parts that the claimed limitation is referring to.

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Claim 25:

- Line 5 recites the limitation “half-clutches”. It is unclear which elements in the transmission that the claimed limitation considers as “half-clutches”.

Claim 32:

- Lines 1-2 recite the limitation "the internal gear". There is insufficient antecedent basis for this limitation in the claim.

Claim 33:

- Lines 1-2 recite the limitation "the sun gear". There is insufficient antecedent basis for this limitation in the claim.

Claim 34:

- Lines 1-2 recite the limitation "the carrier". There is insufficient antecedent basis for this limitation in the claim.

Claim 35:

- Lines 1-2 recite the limitation "the carrier". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**8. Claims 24, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by U.**

**S. Patent No. 6,669,596 to Sefcik.**

*Claims 24, 27 and 28:*

Sefcik (Figs. 1-6; 2, line 61 – column 8, line 19) discloses a planetary transmission comprising:

- A first planetary gear set (i.e., Fig. 1, element 22);
- A second planetary gear set (i.e., Fig. 1, being elements 54, 62, a left portion of a common element 56 and a portion of carrier 64 that supports element 62);
- A third planetary gear set (i.e., Fig. 1, being elements 52, 60, a right portion of a common element 56 and a portion of carrier 64 that supports element 60);
- A first frictional shifting clutch (i.e., Fig. 1, element 18);
- A second frictional shifting clutch (i.e., Fig. 1, element 20);
- At least first, second, third, fourth, fifth and sixth shifting synchronizer clutches (i.e., Fig. 1, elements 26A, 28A, 28B, 30A, 30B, 32A, 32B, 34A and 34B);
- First and second brakes (i.e., Fig. 1, elements 36 and 38);
- A transmission input shaft (i.e., Fig. 1, element 68);

- A transmission output shaft (i.e., Fig. 1, element 66); and
- Wherein the first and second frictional shifting clutches can be wet or dry.

### *Allowable Subject Matter*

9. Claims 25, 26, and 29-46 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### *Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Haka (U. S. Patent No. 7,128,682) teaches a planetary transmission, as shown in Fig. 1.
- Baldwin (U. S. Patent No. 7,175,563) teaches a planetary transmission, as shown in Fig. 1.
- Haka (U. S. Patent Application Publication No. US 2004/0023748 A1) teaches a multi-speed transmission, as shown in Fig. 1.
- Haka (U. S. Patent Application Publication No. US 2003/0232689 A1) teaches a multi-speed transmission, as shown in Fig. 1.
- Haka (U. S. Patent No. 6,663,528) teaches a planetary transmission, as shown in Fig. 1.

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- Haka (U. S. Patent No. 6,663,529) teaches a planetary transmission, as shown in Fig. 1.
- Haka (U. S. Patent No. 5,879,263) teaches a planetary transmission, as shown in Fig. 1.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Le whose telephone number is 571-272-7092. The examiner can normally be reached on Mon-Fri (0900-1730).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David D. Le/  
Primary Examiner, Art Unit 3655  
12/19/2008

ddl